

**Election Administration Subgroup
Meeting Notes
May 9, 2003**

Members: Christa Adkins, Tami Barreto, Amos Brown, Pam Finlayson, Dee Ann Hart Mike Kiefer, Zach Main, Kathy Richardson, Col. Ryan, Secretary of State Todd Rokita. Facilitators Sarah Taylor and Anita Kolkmeier

Others present: Doug DeJarnatt (EDS), Cris Fulford (Attain, Inc), Tom Gallagher (Indiana Protection & Advocacy Services), Rick Shaffer (EDS), Julia Vaughn (Count Us In), Ruth E. Hibbard (Clinton County Clerk & President of Association of Indiana Circuit Court Clerks), Karen Daily (Benton County Clerk)

Sarah Taylor opened the meeting with the following general announcements: please note that the revised scheduled date of June 27, 2003 for the Vote Indiana Team will be moved to June 30, 2003 to allow for 30 days of public comment prior to reconvening team members. Sarah also noted that there are only 1.5 hours of meeting time left for the Election Administration subgroup including today's meeting. The collection of email addresses for interested parties in receiving the state plan during the public comment period should be sent to Sarah.

There were no additions or corrections to the minutes.

Sarah briefly reviewed website accessibility as tasked at the last meeting. Access Indiana and CIO Laura Larimer are ready to provide the IED with support and guidance for developing the website and other materials in an accessible format. She introduced Cris Fulford from Attain Inc. and noted that the infrastructure was already in place to patrol for accessibility formats.

The next issue from the last meeting was the definition of "mail in" registration because there are new identification requirements for those who register by mail. Anita Kolkmeier had contacted the DOJ to see if by mail only applied to those received in the mail or also included those that did voter drives using the same form. The DOJ had received this question from Florida as well, but had not reached a decision on the issue. They said that they would look into it more. Kristi went into further detail surrounding the issue itself. She also noted that SEA 268 carried over the language from HAVA; therefore, requiring only those first time registrants who sent forms *through the mail* to provide identification. Kristi stressed that those who participate in voter drives and applications that are dropped off to the voter registration office do not need to provide identification. Indiana law defines "mail in" registration as only the applications that are received through the mail because they did not want to go farther than HAVA.

Sarah then explained that SEA 268 expanded the opportunities for provisional ballots. The provisional ballot process is scheduled to be implemented in 2004. Kristi added that we had a good start to the provisional ballot process in current Indiana law. She said one of the most frequent questions being asked was "what if someone shows up at the wrong

precinct to vote?” She explained that Indiana law answers this question. Under current Indiana law, one must be a qualified voter of the precinct in order for his ballot (or any part of the ballot) to be counted. However, Kristi pointed out that we can make other recommendations in the plan. Kristi also said that she was unaware of any litigation on this issue of whether the votes should be counted or not.

Pam Finlayson explained what happened in North Carolina. Under North Carolina law, the votes for statewide candidates that are cast provisionally in the wrong precinct are counted because the statewide candidates did not want to lose those votes. In North Carolina, bus loads of people showed up at wrong polling sites and were allowed to vote provisionally. It took the election administrators 3 hours to remake the ballots and count them at the correct precinct. A compromise was suggested by an individual in N.C. to only allow an individual who showed up at the wrong precinct to have a federal ballot which is the approach that some other states have taken.

Several members of the group did not like the idea of just allowing the individual to vote the federal ballot. Pam did not like the federal voting idea because it could be the election official's mistake and then the voter would only have an opportunity to vote for the federal offices. Kathy Richardson indicated that giving the voter only a federal ballot encourages people to vote just for the President.

Amos said that at times individuals change their registration but they have nothing in hand to prove that they did their job and then they sometimes get hurt by the process. Amos noted that 25% of the minority community move each year. He stressed the need for some education to remind voters to transfer their registration to where they currently live.

Sarah then told the story of the last minute voters from Tuesday's primary. Kristi stated that Indiana has the shortest hours for voting, but the group agreed that even if hours were extended that there would always be last minute voters.

Sarah also explained that a document would be provided to provisional voters to inform them of the free access system for finding out if their vote counted. We envision county by county process until the statewide voter file is up and running. Once the statewide voter file is up, a voter can call in to the statewide free access system and find out in a private and confidential manner if his vote was counted. Kathy asked if the counties could send out letters, rather than everyone calling into their offices one by one. Kristi said yes as long as you provide phone number for follow up. Pam likes the idea that it will eventually flow to the state.

Amos asked if the number of provisional ballots would be announced to the press on election night. He pointed out that this number would be something that they would want to know to avoid calling a result before the provisional ballots had been counted which could possibly change the results.

CONSENSUS The Subgroup members agreed with the current statute regarding counting only the provisional ballots of voters who vote in the correct precinct. However, Tami is not real happy about it.

Sarah then brought up the second generation issue which was left over from the March 14th meeting. Col. Ryan said that this was not a great concern. He said that it was not as much with the military but for overseas families that have 17 or 18 year old children who are unable to register since they have never resided in the states. He said that 10 states allow these individuals with some connection to their state (possibly parent's residence), but not a registered voter to vote in that state. He was uncertain whether this was permissible here in Indiana. Kristi explained that there is a Constitutional provision that one must be a resident of Indiana for 30 days in order to vote. Col. Ryan said that this was a DOD legislative recommendation that could be a future consideration. Other states are linking residence to parent's residence. Sarah asked the group that if they had a way to insert this idea into the plan to email it to her.

Kristi gave an overview of SEA 268 as it pertains to showing identification for first time mail in registrants. Local effort to collect this information up front is imperative to avoid confusion on election day.

Amos said that he was uncomfortable with showing identification. He added the fear was that this will not be enforced evenly and fairly. Pam said that no one should be turned away. Amos said that Hoosiers don't mind showing id to write a check, but they have a problem showing id at the polls. Kristi said that her grandmother is 90 years old never had a driver's license or any other form of state identification. Pam suggested for the identification requirements (for mail in registrants) working hard to get all documents up front and then the provisional ballot will be a catch all. Kristi then explained to the group the requirements for first time mail in registrants. Pam noted that there are 2 groups who are also exempt under HAVA (those entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act and those covered by the Voting Accessibility for the Elderly and Handicapped Act).

The group agreed that:

It should not be recommended that everyone show identification. First time mail in registrants only must provide identification. They will be contacted in advance to try and obtain this information. If the identification is not provided, on election day, they will be flagged on the poll list to ask for identification. If they still don't provide identification, they can vote with a provisional ballot.

Kristi added that instructions will be added to the mail-in form. The mail-in requirements will go into effect July 1, 2003 going back to January 1, 2003 mail in registrants. The old forms will no longer be used. Amos suggested inserting in the plan that the State recommends to voter drive websites that they should comply with HAVA.

Next the subgroup discussed the draft state plan idea of MOU's. The group discussed whether the agreements with the counties be put into legislation, a rule or by use of

MOU's. Pam said that there needs to be some accountability. Todd said that we also wanted uniformity between each county and Todd also volunteered the election division to draft the MOU.

Anita Kolkmeier explained the grievance procedure set forth in SEA 268 and how it differed with the draft state plan. She pointed out that the main difference is that SEA 268 states that if the Election Commission fails to make a final decision within the 90 days, it is referred to an arbitrator selected jointly by the commission and the person who filed the complaint. Tom Gallagher of Protection and Advocacy Services expressed his concerns. The subgroup was given a memo from Tom which expressed his concerns and ideas. He was first concerned with the idea of having a screener. He said that they appeared to be a gatekeeper and that HAVA provides that anyone who believes to have been harmed may file a complaint. He also is worried about alternate formats. He suggested that we develop a one page complaint which could easily be provided in alternative versions i.e. language. Another concern is that the plan did not mention judicial review or alternative dispute resolution. Kristi said that grievance process set forth in SEA 268 is covered by the Administrative Procedures Act and judicial review is covered under that. Todd said that the second draft will address this issue of judicial review because we have to certify to the federal government what we are doing. **Sarah is tasked with writing the second draft and filling the gaps.** Kristi said that the commission can create the one page complaint with alternative formats. **The subgroup reached consensus that the complaint form should be one page form to fill out with instructions on the form. The IEC will develop the form and it will be available on the web.** Tom asked about the speed of the resolution. Kathy said that it depends on what the problem is. Tom suggested putting into the draft certain instances that could be resolved on that day. Christa pointed out that with systems changing putting something definite in the plan may not serve the voter's best interest. Sarah said that Tom could come on May 30th with written language or suggest language during the public comment period. Tom asked if there were some instances that could be resolved on that day. He said if the answer is yes, then the plan should lay that out. Christa asked if the goal is to get people to voice their complaint because they know it will be answered quickly. Tom said yes. Pam said that we don't have that problem because people express their complaints. Kristi suggested adding to the Voter's Bill of Rights that a statewide grievance procedure is available and having complaint forms available that day. Sarah pointed out that there are other grievances in addition to HAVA grievances.

Zach asked that the idea of showing identification being revisited during the full group discussion. Pam said that her main concern was she didn't want to have an argument at the polls. Kathy said that she wants accurate results. **It was then agreed that the second draft will incorporate the consensus of today but the issue will be discussed at the full team meeting.**

Col. Ryan distributed Appendix C Electronic Transmission of Election Materials and the Federal Post Card Application for Absentee Ballot and instructions. He wants individuals from the counties to look at this so that we have a view from the bottom up.

Public Comment:

Julia Vaughn: She is uncomfortable with the draft plan regarding showing identification, but she is much more comfortable with today's discussion.

Dee Ann Hart: It is important to consider alternative formats, for example, on cassettes, accessible websites. She also stated that if you have posters, you need to have handouts as well for those with a visual impairment.